

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 698**

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**Introduced by Assembly Member Haynes**  
**(~~Coauthor: Assembly Member Bermudez~~ Coauthors: Assembly**  
**Members Bermudez and Matthews)**  
*(Coauthor: Senator Dutton)*

February 17, 2005

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An act to add Section 5015 to the Penal Code, relating to media access to prisons.

### LEGISLATIVE COUNSEL'S DIGEST

AB 698, as amended, Haynes. Corrections: media access.

Existing law grants certain rights to inmates in state prisons. Existing regulation allows media representatives access to state prisons with prior approval, and allows random interviews with inmates.

This bill would require representatives of the news media to be permitted to visit correctional institutions. The bill would authorize a warden to grant a request to interview an inmate, unless the warden makes certain determinations. The bill would permit a news media representative to receive confidential correspondence from a prisoner, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 5015 is added to the Penal Code, to~~  
2     ~~read:~~

3     ~~SECTION 1. It is the intent of the Legislature in enacting this~~  
4     ~~act to facilitate the public's ability to obtain information, through~~  
5     ~~the news media, about the operation of the state's prisons and~~  
6     ~~the effectiveness of its laws and to hold inmates publicly~~  
7     ~~accountable for their words and actions. Representatives of the~~  
8     ~~news media may visit a prison for the purpose of preparing such~~  
9     ~~reports about the institution, including by interviewing individual~~  
10    ~~prisoners. The intent of this act is to insure a better-informed~~  
11    ~~public, not to provide publicity for an inmate.~~

12    ~~SEC. 2. Section 5015 is added to the Penal Code, to read:~~

13    ~~5015. (a) The Department of Corrections, upon reasonable~~  
14    ~~notice, shall permit representatives of the news media to~~  
15    ~~interview prisoners in person, including prearranged interviews~~  
16    ~~with specified prisoners and individuals encountered by a~~  
17    ~~representative of the news media while covering a facility tour,~~  
18    ~~activity, event or program. Either an inmate or a representative~~  
19    ~~of the news media may initiate a request for a personal interview~~  
20    ~~at an institution.~~

21    ~~(b) During any interview with a prisoner, a representative of~~  
22    ~~the news media may use materials necessary to conduct the~~  
23    ~~interview, including, but not limited to, pens, pencils, papers, and~~  
24    ~~audio and video recording devices.~~

25    ~~(c) A news media representative who desires to conduct a~~  
26    ~~personal interview at an institution shall make the request within~~  
27    ~~a reasonable time period prior to the requested interview in~~  
28    ~~writing to the warden or through contact with the institution's~~  
29    ~~public relations office.~~

30    ~~(d) Staff shall notify an inmate of each interview request, and~~  
31    ~~no interview shall be permitted without the inmate's consent.~~

32    ~~(e) An inmate may not receive compensation or anything of~~  
33    ~~value for interviews with the news media.~~

34    ~~(f) The warden or the warden's designated public-relations or~~  
35    ~~custodial official shall normally approve or disapprove an~~  
36    ~~interview request within five days.~~

37    ~~(g) Upon request of an interview, the warden or Department~~  
38    ~~of Corrections shall notify the victim or victim's family at least~~

1 *five days prior to granting the interview, if the victim or victim's*  
2 *family has previously notified the warden or Department of*  
3 *Corrections that they wish to be contacted in the event of an*  
4 *interview request.*

5 *(h) The warden or his or her designee may deny a personal*  
6 *interview with a particular prisoner if it is determined that the*  
7 *interview would pose an immediate and direct threat to the*  
8 *security of the institution or the physical safety of a member to*  
9 *the public. Within a reasonable period of time, the representative*  
10 *of the news media shall receive an explanation of the specific*  
11 *reasons for the denial. In order to ensure the security of the*  
12 *institution, the physical safety of the public and the efficient*  
13 *administration of news media interviews, the department may*  
14 *establish reasonable time, place, and manner restrictions for*  
15 *prison interviews, including limitations on the number of*  
16 *interviews per prisoner in a specified time period, limitations on*  
17 *the amount of audio, video and film equipment entering the*  
18 *facility and arrangements for pool interviews if the number of*  
19 *journalists requesting to interview any one prisoner is excessive.*

20 *(i) The department shall permit the news media to exchange*  
21 *confidential correspondence with a prisoner unless to do so*  
22 *would pose an immediate and direct threat to the security of the*  
23 *institution or the safety of the public.*

24 *(j) No prisoner or parolee may have his or her visitation*  
25 *limited or revoked because of a visit or potential visit from a*  
26 *representative of the news media, nor may a prisoner or parolee*  
27 *be punished, reclassified, disciplined, transferred to another*  
28 *prison against his or her wishes, or otherwise retaliated against,*  
29 *for participating in a visit by a representative of the news media.*

30 *(k) Interviews shall not be subject to auditory monitoring.*

31 *(l) For the purposes of this section, "representative of the*  
32 *news media" means a journalist who works for, or is under*  
33 *contract to, a newspaper, magazine, wire service, book*  
34 *publisher, or radio or television program, or station or who,*  
35 *through press passes issued by a governmental or police agency,*  
36 *or through similar convincing means, can demonstrate that he or*  
37 *she is a bona fide journalist engaged in the gathering of*  
38 *information for distribution to the public.*

39 ~~5015. (a) The Legislature finds and declares that visits and~~  
40 ~~interviews by news media representatives with correctional staff~~

1 and inmates fosters the public's understanding of the qualities,  
2 problems, and needs of inmates and correctional institutions.  
3 That understanding helps to develop community acceptance and  
4 support of correctional objectives, including the objective of  
5 successful reintegration of offenders into the community.

6 (b) Representatives of the news media shall be permitted to  
7 visit correctional institutions. The warden of a state correctional  
8 facility may grant a request of a news media representative to  
9 interview an inmate, unless one of the following exists:

10 (1) The warden determines that the interview will jeopardize  
11 or be detrimental to any of the following:

12 (A) The safety or order of the institution.

13 (B) The welfare of the inmate.

14 (C) The welfare of the victim, the victim's family, or the  
15 community. In making a determination pursuant to this  
16 subparagraph, the warden shall request input from the victim or  
17 victim's family member at least five days prior to granting the  
18 interview, if the victim or victim's family has previously notified  
19 the warden that they wish to be contacted in the event of an  
20 interview request.

21 (D) Legitimate penological objectives, including limited  
22 resources.

23 (2) The inmate is confined in segregation.

24 (3) The inmate refuses to be interviewed.

25 (e) Representatives of the news media who visit correctional  
26 institutions shall be subject to the same rules and regulations as  
27 all other visitors, however they shall not be counted towards any  
28 limits on visitors that may be imposed upon the inmate, unless  
29 the media representative is also on the inmate's visiting list.

30 (d) A news media representative may photograph an inmate,  
31 with the inmate's written permission. The written permission  
32 shall specify the date of the photo and the proposed use of the  
33 photo.

34 (e) During any visit, a news media representative may use  
35 materials necessary to conduct the interview, including, but not  
36 limited to, pens, pencils, papers, cameras, and audio and video  
37 recording devices.

38 (f) The department shall permit a news media representative to  
39 receive confidential correspondence from a prisoner unless to do

1 ~~so would pose an immediate and direct threat to the security of~~  
2 ~~the institution or the physical safety of the public.~~

3 ~~(g) The warden shall regulate the time, location, length, and~~  
4 ~~equipment used for all interviews conducted pursuant to this~~  
5 ~~section.~~

6 ~~(h) For the purposes of this section, “news media~~  
7 ~~representative” means a journalist who works for, or is under~~  
8 ~~contract to, a newspaper, magazine, wire service, or radio or~~  
9 ~~television program or who, through press passes issued by a~~  
10 ~~governmental or police agency or through similar convincing~~  
11 ~~means, can demonstrate that he or she is a bona fide journalist~~  
12 ~~engaged in the gathering of information for distribution to the~~  
13 ~~public.~~